

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

OUTBOARD MARINE CORPORATION,

Defendant, Third-Party
Plaintiff, and Cross-
Claim Defendant,

and

MONSANTO COMPANY,

Defendant, Third-Party
Defendant, and Cross-
Claim Plaintiff.

Civil Action No. 78 C 1004

Honorable Susan Getzendanner

NOTICE OF FILING

TO: All counsel on attached
Service List

PLEASE TAKE NOTICE that we have this date filed
DEFENDANT MONSANTO COMPANY'S THIRD SET OF REQUESTS FOR
ADMISSION TO PLAINTIFF UNITED STATES, a true copy of
which is attached hereto and served upon you.

This 17th day of June, 1982.



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16-5V 28.0/083

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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UNITED STATES OF AMERICA,)	
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Plaintiff,)	
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OUTBOARD MARINE CORPORATION,)	
)	Civil Action No. 78 C 1004
Defendant, Third-Party)	
Plaintiff, and Cross-)	
Claim Defendant,)	
)	
and)	Honorable Susan Getzendanner
)	
MONSANTO COMPANY,)	
)	
Defendant, Third-Party)	
Defendant, and Cross-)	
Claim Plaintiff.)	

DEFENDANT MONSANTO COMPANY'S THIRD SET OF
REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES

In accordance with Rule 36 of the Federal Rules of Civil Procedure, defendant Monsanto Company requests that plaintiff United States make the following admissions:

REQUESTS TO ADMIT

1. On October 28-29, 1981, the deposition of Dr. Wayland R. Swain was taken in Chicago, Illinois. Dr. Swain testified under oath.

2. At the time of his deposition, Dr. Swain was employed as chief of the United States EPA's Large Lakes Research Laboratory at Grosse Ile, Michigan. Dr. Swain was familiar with research regarding PCB levels in fish and human health effects of PCBs.

3. At his deposition, Dr. Swain was asked these questions and made these admissions (pp. 206-207):

"Q All right. Assuming first that the fish immediately outside of Waukegan Harbor have no different PCB levels than fish caught elsewhere in Lake Michigan --

A All right.

Q From that you have offered the opinion that those fish immediately outside of Waukegan Harbor spend little if any time in the waters of Waukegan Harbor.

* * *

Q Isn't that right, Doctor?

A No. In contact with the materials from the Harbor.

Q Why don't you give me the complete answer because you gave me a fragment of an answer and I don't understand what you mean.

A All right.

Fish to which you have reference did not spend or would not have spent time apparently in contact with the materials, PCB materials from Waukegan Harbor, either through the food chain or the water column uptake."

4. At his deposition, Dr. Swain was asked these questions and made these admissions (pp. 218-220):

"Q Dr. Swain, are you aware that PCB levels in Lake Michigan fish have declined substantially in recent years?

A There is evidence that indicates there has been a decline, yes.

Q Do you consider it a significant decline?

A Yes.

Q What is your explanation for the decline in PCB levels in Lake Michigan fish?

A My expectation would be that it was a function of the amount of loading to the Lake as a whole.

* * *

Q By that do you mean that the PCB inputs into Lake Michigan have decreased and thus the PCB levels in the fish have decreased?

A Yes.

Q Do you also attribute the decline in the PCB levels in Lake Michigan fish to the fact that PCBs have been buried in the sediments of Lake Michigan and have therefore dropped out of the food chain, if you will?

A That is one of the lost terms for the ecosystem as a whole. It is a normally functioning process within a body of water so that does constitute a removal process, yes.

Q On the basis of your review of information and the literature, Doctor, do you consider that burial of PCBs in the sediments of Lake Michigan and thus their removal from the food chain to be a substantial loss of PCBs from the system?

A Yes, it appears to be a principal loss mechanism.

* * *

Q Do you have any reason to believe that the declines in the PCB levels in Lake Michigan fish that have been demonstrated in the last few years will not continue in the future?

A Barring unusual consequences or unforeseen consequences, I have no reason to believe they will not continue to decline."

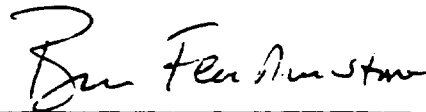
5. At his deposition, Dr. Swain was asked this question and made this admission (p. 256):

"Q On the basis of what you know today and what you have medical confidence in, do you agree with this statement:

'The fact remains that after more than 30 years of widespread environmental exposure to PCBs, we have no documented case histories of human injury or poisoning due to chronic trace exposure to these chemicals'?

A Within the context of the question as you framed it, I would have to be forced to agree with the statement."

DATED: June 17, 1982



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CERTIFICATE OF SERVICE

BRUCE A. FEATHERSTONE hereby certifies that on June 17, 1982, he caused a copy of DEFENDANT MONSANTO COMPANY'S THIRD SET OF REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES to be hand delivered, by messenger, to all counsel on the attached Service List.

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